THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.1139 of 2007

Between:

Maddu Ravi Kiran Kumar Babu.

.. PETITIONER

and

The Director General of Police,
State of Andhra Pradesh and others.

..
RESPONDENTS

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.1139 of 2007

ORDER:

Heard the learned counsel appearing for the petitioner, learned Government Pleader appearing for respondents 1 to 4 and Sri Chidambaram, learned counsel appearing for R-5 and R-6.

It is the case of the petitioner that his marriage was performed on 06-07-2006 with the 5th respondent, who is the daughter of the 6th respondent. While so, the 5th respondent lodged a complaint against the petitioner and his mother and sister alleging that they committed offences punishable under Sections 498-A and 325 read with 34 IPC and 3 and 4 of Dowry Prohibition Act and accordingly a case in Cr.No.158 of 2006 was registered on the file of II Town Police Station, Bhimavaram, West Godavari District. It is stated that the petitioner and his mother have been detained on 03-12-2006 and produced before the II Additional Judicial First Class Magistrate, Bhimavaram, on 04-12-2006. Immediately, he filed Crl.M.P.No.6548 of 2006 in Cr.No.158 of 2006 before the II Additional Judicial First Class Magistrate, Bhimavaram, but the same has been dismissed on 08-12-2006 observing as follows:-

> "Notwithstanding the allegations against Accused No.1 herein is a peculiar situation that the defacto-complainant is no other than daughter of the bench clerk of this Court. All Judicial Officers of Bhimavaram attended the marriage function; that the officers are the witnesses for the marriage function. In the circumstances, it is unwarranted to deal with the case having known the parties earlier to the alleged offence and it is embarrassing for the Court to dispose of the petition. The Court has advised the Counsel for Accused No.1 to work out the remedy before a competent Court of law."

I am of the opinion that the aforesaid observation made by the II Additional Judicial First Class Magistrate, Bhimavaram, is illegal and without any justification. Merely because all the judicial officers

attended the marriage function and merely because the defacto-complaint is the daughter of the bench clerk of the said Court, it cannot be said that he is precluded from deciding the case and advise to workout the remedy before a competent Court of law. The Magistrate must be impartial and he should not show any favour or shun his responsibilities and duties while rendering justice. Justice is not a matter of provocative but it should be impartial without influenced by any facts and circumstances and without fear or favour. Therefore, the dismissal of bail application in view of the aforesaid facts and circumstances is illegal and unsustainable. However, it is stated that in fact the petitioner obtained bail from the learned Sessions Judge.

The learned counsel appearing for the 5th and 6th respondents stated that the said Sri N.Naga Raju, who was the Presiding Officer of the Court of II Additional Judicial First Class Magistrate, Bhimavaram, has been transferred to Tenali, Guntur District and the 6th respondent has also been transferred to Kovvur, West Godavari District. Therefore, it may not be just and proper to transfer the said case from Bhimavaram to any other agency.

The learned Government Pleader appearing for respondents 1 to 4 submits that the investigation has been completed and charge-sheet has also been filed.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing respondents 3 and 4 to take appropriate steps to get the charge-sheet numbered and the learned Magistrate shall dispose of the criminal case pending against the petitioner and his family members without influenced by any of the previous actions of the learned Judge in accordance with law. There shall be no order as to costs.

11-06-2007

Prv